IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5830 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHIVABHAI SOMABHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5830 of 2004

MR MANISH R RAVAL for Petitioner No. 1

MR ND GOHIL, AGP for Respondent No. 1,4

MR MAYANK VORA for Respondent No. 2,5

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 02/11/2004

ORAL JUDGEMENT

Learned advocate for the petitioner seeks permission to delete respondent No.3. Permission

granted. Respondent No.3 stands deleted.

2. Rule. Learned AGP Mr.N.D.Gohil waives service of rule on behalf of respondent Nos.1 & 4. Mr.Mayank Vora waives service of rule on behalf of respondent Nos.2 & 5. At the joint request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

3. In the present petition, the petitioner had complained about the non-payment of his retiral benefits including pension, gratuity, etc. though he had retired with effect from 31st May 2003. Today, during the course of arguments, learned AGP has made available a communication dated 21st July 2004 in which it is stated that the petitioner is already paid the commuted value of pension of Rs.2,25,709/-, gratuity amount of Rs.1,98,846/- and arrears of pension including the allowances totalling to Rs.80,332/-. It is stated that these amounts were paid on 3rd July 2004. In view of this communication, the learned advocate for the petitioner agrees that the petitioner's retiral dues having been paid the only question survives in the present petition is with respect to interest on delayed payment of retirement benefits.

4. It is not in dispute that the petitioner retired on superannuation with effect from 31.5.03. His pension and other retiral dues were released only on 3rd July 2004, i.e. more than one year after his retirement. It is not the case that the petitioner was guilty for causing delay in payment of his retiral dues.

5. Learned AGP Mr.Gohil points out that the School authorities forwarded the pension papers of the petitioner only on 27th May 2004 which was received by the Local Fund Office, Gandhinagar on 2nd June 2004 and the amount was sanctioned on 30th June 2004 and the same was paid on July 3, 2004. Therefore, he submits that there was no delay on the part of the Government in releasing the retiral benefits of the petitioner. However, the fact remains that the petitioner has received the amount of retiral dues after a period of more than one year. The respondents, therefore, shall pay 8 percent simple interest on the delayed payment of gratuity and arrears of pension after three months from the date of retirement of the petitioner and only to the extent of actual delay. It is clarified that the commuted value of pension shall not carry any interest. It is further clarified that if it is found that the concerned school was in any manner responsible for

causing delay in payment of the petitioner's retirement dues, it will be open for the respondents to recover the amount being paid to the petitioner by way of interest from the school after following due process of law.

6. With the above observations and directions, the petition is disposed of. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)
(vjn)